REMARKS

The Office Action of September 28, 2007 has been given careful consideration by the Applicants. All claims (1-5, 7-16 and 18-26) remain in the application. Claims 6 and 17 have been canceled without prejudice. Claims 5, 16 and 24 have been amended in order to further clarify the proposed invention. Reconsideration of the present application is hereby respectfully requested.

The Office Action

The Examiner rejected all pending claims in the application. The Examiner rejected claims 12-18, 20-22, 25 and 26 under 35 U.S.C. §101 stating that software does not fall into one of the four statutory categories and therefore is a non-statutory subject matter. The Examiner also rejected claims 1, 5, 12, 16 and 23-26, under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Furthermore, the Examiner rejected claims 1, 12, 23 and 25 under 35 U.S.C. §102(e) as being anticipated by Oommen (U.S. Patent No. 6,993,328) and, finally, the Examiner rejected claims 3, 8, 9, 11, 14, 19, 20 and 22 as being unpatentabler over Oommen in view of Salomon (U.S. Publication No. 2003/0041125). Reconsideration of the claims is hereby respectfully requested.

The Cited Art

The Examiner's primary reference is Oommen. Oommen is directed towards a method for over the air mobile station management. Oommen teaches a system and method for managing mobile stations wirelessly. Some of the objects allow for a mobile station to utilize services such as accessing the internet and email services. Additional objects for providing access to new service may be wirelessly transmitted from a management server to the mobile station. Through this disclosure, Oommen teaches modifying control software installed by the mobile station by transmitting a new object from the management server to the mobile station over the air, receiving the new object at the mobile station and storing the new object in a memory of the mobile station. Oommen, however, does not disclose establishing a speech path between the user entity and the trusted entity.

The Examiner also cites Kashino. Kashino is directed towards information searching and storage medium storing. Kashino teaches a searching and delivery

information method by utilizing a specified search key. Kashino relates to an information search method and a storage medium upon which the program is stored.

The Examiner also cites Salomon. Salomon is an internet deployed wireless system which includes an application server program configured to be downloaded to and to execute on one or more remote wireless application server computers. The application server program is also configured to cause one or more remote application server computers to download and to install one or more wireless application software components.

The Claim Objections

The Examiner objected to claims 5, 16 and 24 stating that the claims recite releasing a speech path when no speech path was ever established.

The Examiner will appreciate that the claims have been amended in order to establish a speech path. Withdrawal of these rejections is respectfully requested.

The '101 rejection

The Examiner rejected claims 12-18, 20-22, 25 and 26 under 35 U.S.C. §101 stating that the claimed invention is directed towards non-statutory subject matter. Applicants respectfully traverse for at least the following reasons.

The Examiner claims that software does not fall into one of the four statutory categories and is therefore not statutory. However, the Court of Appeals for the Federal Circuit ruled that whether a patent claim encompasses statutory subject matter should not turn on which of the four categories the subject matter of the claim is directed to, but rather on the essential characteristics of the subject matter. The Federal Circuit went on to state that the practical application of a mathematical algorithm formula or calculation may be patentable, if it produces a "useful, concrete and tangible result". State Street Bank and Trust v. Signature Financial Group Inc., 149 F3d. 1368 (Fed. Cir. 1998), USPQ2d 1596. Therefore, stating that software does not fall into one of the four statutory categories is at best, out of date. Because claims 12-18, 20-22, 25 and 26 do indeed produce a useful, concrete and tangible result, the subject matter of these claims is indeed patentable.

The Examiner also claims that these claims (12-18, 20-22, 25 and 26) teach that the means may be software. However, the Examiner fails to state that the means may be software, hardware, and/or a combination of each. See paragraph

27 and 31. Therefore, even if software were in of itself non-statutory subject matter, that rejection would not apply to the instant application.

The '112 rejection

The Examiner rejected claims 1, 5, 12, 16 and 23-26 under §112 second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter. Applicants traverse for at least the following reasons.

The Examiner claims that it is unclear how to authenticate a trusted entity using user data. However, paragraph 32 explicitly states how this is done. For example, the authentication module operates to authenticate the request in conjunction with the authentication module. That is, these authentication modules operate in a manner as to ensure that each end point (e.g. the user entity and the trusted entity) makes sure that the other end point is who it says it is. An example of this authentication method is spelled out precisely in paragraph 32 of the specification. This method of authentication is further explained in paragraphs 27 and 29. It is therefore respectfully requested that this rejection be withdrawn.

Claims 1, 2, 4-7, 10, 12, 13, 15-18, 21 and 23-26 are not anticipated by Oommen

Examiner rejected claims 1, 2, 4-7, 10, 12, 13, 15-18, 21 and 23-26 under §102(e) as being anticipated by Oommen. Applicants traverse for at least the following reasons.

Oommen does not disclose or suggest establishing a speech path between the user entity and the trusted entity. Contrary to what the Examiner claims, column 4, lines 22-25 at most disclose an opportunity for the transmission of data. As stated in this section, the information is modulated by a modulator and transmitted to the antenna by a transmitter circuit. The transmission of data, according to Oommen, may be performed using secure transmission techniques. However, there is no reference or suggestion of transferring speech. Therefore, there is no suggestion of establishing a speech path which is explicitly claimed in each of the aforementioned claims, either directly or from being dependent upon a claim that states such.

Therefore, it is respectfully requested that the rejection to claims 1, 2, 4-7, 10, 12, 13, 15-18, 21 and 23-26 be withdrawn. Furthermore, it should be noted that the addition of Kashino and/or Salomon does not cure the above stated deficiency.

Claims 3, 9, 14 and 20 are not unpatentable over Oommen in view of Kashino

The Examiner rejected claims 3, 9, 14 and 20 under §103(a) as being unpatentable over Oommen in view of Kashino. These claims are all dependent from at least one of the independent claims stated above. Therefore, for the reasons stated above, these claims should also be allowed. However, for at least the following additional reason, this rejection should be withdrawn.

Kashino and Oommen are not combinable. The Examiner states that Kashino and Oommen are analogous art because they are from the problem solving area of entity authentication. However, this statement is not persuasive. Kashino is directed towards information search methods and storage medium storing of programs. Kashino is mainly directed towards finding concrete media information which the user has specified by a search key. The embodiments listed in Kashino are directed towards searching for music with limited parameters in which to find the music. Oommen on the other hand is directed towards mobile station management through the air. This hardly qualifies as analogous and without any suggestion, teaching or motivation to combine these two pieces, the rejection should be withdrawn.

Dependent claims 8, 11, 19 and 22 are not unpatentable over Oommen in view of Salomon

Claims 8, 11, 19 and 22 are also dependent from at least one of the indenpdent claims stated above. These independent claims are currently in condition for allowance. Therefore, it is respectfully requested that the rejection to these dependent claims be withdrawn.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-26) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Joseph D. Dreher, at (216) 861-5582.

Respectfully submitted,

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12/27/07
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